

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**UNITED STATES OF AMERICA**

**v**

**Case No.: 2:19-cr-000171**

**ROBERT JAMES McCABE, et al**

**Defendant,**

**MEMORANDUM IN SUPPORT OF  
MOTION TO DISMISS COUNT 11**

The defendant, having filed a motion to dismiss Count 11 of the indictment, now files the memorandum in support of such motion.

In order to prove a conspiracy to commit money laundering in violation of 18 U.S.C. §1956 (H) the government must prove, amongst other elements, beyond a reasonable doubt the following. That the property involved in the transaction represented the proceeds from some form of activity that is a felony. See 18 U.S. Code § 1956. (C) (I).

1. The gravamen of the offense is the financial transaction representing the proceeds of a specifically unlawful activity. While in this case there may be a financial transaction that being the \$12,500.00 check, there is no evidence or allegation in the indictment as to the illegal nature of the source of the funds used by Mr. Boyle to satisfy the check.

2. As the indictment sets forth, Mr. Boyle was CEO of a major company providing medical services to jails and institutions across the country. Boyle had streams of income from multiple sources, out side from the contract with the City of Norfolk.

3. The indictment does not allege, nor can the evidence establish, that the source of the funds for the \$12, 5000.00 check came from the contract with the City of Norfolk. Since the funds are not from a specified unlawful activity, the count cannot stand as that is an element of the offense.

4. In addition, the \$12,500.00 check represents a campaign contribution which requires an explicit quid pro quo as addressed in other motions.

WHEREFORE, for these reasons and any others that may be developed at a hearing on this motion, Mr. McCabe requests the Honorable Court to dismiss Count 11 of the indictment.

Respectfully submitted,

Robert James McCabe  
By Counsel

\_\_\_\_\_/s/  
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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